



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/21/02693/FPA
Full Application Description:	Change of use from betting shop to hot food takeaway and 2 no. flats, to install new front door and roller shutter and flue to rear
Name of Applicant:	Mrs Gemma Uyan
Address:	37 Seaside Lane, Easington Colliery, Peterlee, SR8 3PG
Electoral Division:	Easington
Case Officer:	George Spurgeon (Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site comprises a vacant former betting shop within the defined local centre of Easington Colliery. The premises is a large double frontage two storey mid terrace property that has been vacant since January 2020, with the glazing within the shop front having been boarded up.
2. To the rear, the premises features offshoots that cover the entire rear yard. To the western side of the rear elevation is a first floor offshoot that extends the full length of the curtilage. To the eastern side of the rear elevation is a 5.8m long first floor offshoot, with a ground floor offshoot taking up the remaining length of the curtilage. In between the two first floor offshoots there is a gap of 2.4m to 5.3m wide, leaving an 'L' shaped ground floor element with flat roof.
3. The premises fronts onto Seaside Lane and does not benefit from any dedicated parking spaces. The premises is located within an accessible location within the local centre of Easington Colliery and is adjacent to a bus stop providing a public transport option for access into Peterlee and Seaham.

4. To the west of the site adjacent to the host property lie two existing hot food takeaways, with further commercial premises to the east. To the south lies the Parish Church and to the north lies a parcel of amenity green space, with allotments beyond both to the north and south. To the north east, north west and south west lie residential dwellings, giving the area a mixed commercial and residential character.

The Proposal

5. The application seeks planning permission to change the use of the ground floor to a hot food takeaway and to convert the first floor into two residential units: a one bed flat and a five bed flat. The first floor is thought to have been previously used as an office and storage area connected to the betting shop operating from the ground floor.
6. As part of the proposals, the existing entrance to the ground floor would be widened to 1.8m, a new door would be installed to the right-hand side of the frontage, and the existing door within the rear elevation would be replaced with a widened roller shutter entrance to the bin storage area. A flue would be installed to the flat roof of the central ground floor rear offshoot.
7. The one bed flat is proposed to be occupied by an employee of the ground floor unit and would be accessed by the new door within the front elevation. The flat would comprise a bedroom, lounge, shower room and kitchen/dining area. The five bed flat would be accessed from the widened door to the left-hand side of the frontage, with alternative access available via the rear. This flat would comprise five bedrooms, a lounge and a kitchen/dining area, as well as a bathroom on the ground floor. The applicant has indicated that this flat is intended to be occupied by her and her children.
8. The application is reported to the Planning Committee at the request of the Easington Colliery Parish Council due to concerns over an over proliferation of hot food takeaways, parking and servicing, odour and noise, and anti-social behaviour and littering.

PLANNING HISTORY

9. None.

PLANNING POLICY

National Policy

10. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.

11. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
12. *NPPF Part 4 - Decision-making*. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
13. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
14. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
15. *NPPF Part 7 Ensuring the Vitality of Town Centres* - Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
16. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
17. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
18. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

Local Plan Policy:

19. The following policies of the County Durham Plan is considered relevant to the determination of this planning application;

20. *Policy 9 Retail Hierarchy and Town Centre Development*: defines the retail hierarchy and states that proposals that would positively contribute to the evening economy will be supported provided they contribute to the vitality and viability of town centres, promote public safety and accord with this and other relevant policies in the Plan.
21. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
22. *Policy 29 Sustainable Design* details general design principles for all development stating that new development should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
23. *Policy 30 Hot Food Takeaways*: states that within defined local centres consideration should be given to the impact that the proposed hot food takeaways would have in terms of the overall vitality and viability considering the numbers of existing hot food takeaways and will be refused if the impact is unacceptable. Where a proposed hot food takeaway is considered locationally acceptable, consideration will need to be given to the impact that the development would have in terms of amenity, particularly in relation to noise and odours.
24. *Policy 31 Amenity and Pollution* states that new development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and should be integrated effectively with any existing business and community facilities.
25. *Policy 42 Internationally Designated Sites* states that development that has the potential to have an effect on an internationally designated site will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. In these exceptional circumstances, where these tests are met, appropriate compensation will be required in accordance with Regulation 68. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site.

In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered during the Appropriate Assessment.

Neighbourhood Plan

26. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

27. The Easington Colliery Parish Council object to the application on the grounds that the proposed hot food takeaway would result in an increase of noise at unsociable hours, anti-social behaviour, odour and litter; that parking to the front of the premises is limited and parking to the rear would adversely affect residential amenity, with servicing to front being questionable due to the busy road; and an over proliferation of takeaways with the introduction of a further takeaway adversely affecting the health of residents and the town centre.

Internal Consultee Responses:

28. *Highways*: comment that the proposals do not provide for any parking space and would therefore rely upon on-highway space for residential parking, with a car park area available to the rear of Ashton Street. Parking to the frontage is restricted by the location of a bus stop and double yellow lines to the west which extend round into the side street, which results in space on the B1283 Seaside Lane being at a premium due to residential properties above the shops. It would appear from the submitted plans that delivery drivers will have to use the space to the front where there are up to five other take-aways in close proximity. Whilst concerns were raised regarding the parking problems created by the potential inappropriate parking of delivery drivers, the issue is not considered to be severe enough for a highways objection to sustain an appeal under NPPF Paragraph 111.
29. *Ecology*: comment that the site is within the 6k HRA buffer therefore £756.61 Coastal Access Management Measures (CAMMS) contribution is required for every additional residential unit created.
30. *Nuisance Action*: consider that odour from the preparation and cooking of meals and noise from extraction equipment is likely to give rise to statutory nuisance without adequate mitigation. Noise transference between the ground floor and first floor premises commercial use is likely to be intrusive and cause nuisance to the first-floor residential use and recommend conditions requiring details of odour abatement measures, sound proofing measures, to require noise audible within the specified rooms and areas within the first floor flats to not exceed specified noise levels, and to restrict the operating hours of the takeaway to 0900 to 2330hrs on Mondays to Thursdays, 0900 to 0000hrs on Fridays and Saturdays and between 1100 to 2330hrs on Sundays.

31. *Police Architectural Liaison Officer*: no comments received.

Public Responses:

32. The application has been publicised by way notification letters to neighbouring landowners, and a site notice. One objection has been received, raising concerns that delivery drivers to existing hot food takeaways in the area park on double yellow lines every night from around 4pm and take no care when leaving and arriving at the current shops; that there are two takeaway shops next door to 37 Seaside Lane, and that there are too many hot food takeaways in the area which doesn't help with obesity.

Applicants Statement:

33. The submission is to bring back into operation a large premises within the business area. There are currently three takeaways in the street including No 38 one of which operates on a part time basis. We would be bringing employment to the area. I am currently living in a council house nearby which would be freed up when I move above the business. We have been successfully operating in the area for 11 years and hope to continue for many more.

PLANNING CONSIDERATION AND ASSESSMENT

34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, the impact on residential amenity, highway issues, the character and appearance of the area and ecology.

Principle of Development

35. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise with the NPPF representing a material planning consideration in this regard. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up to date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.

36. Paragraph 86 of the NPPF advises that planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability - by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters.
37. In line with this, Policy 9 of the County Durham Plan (CDP) sets out the hierarchy of town centres across the County. The policy defines the settlement of Easington Colliery as having a local centre in which the application site is located. The policy sets out that the council will seek to protect and enhance defined local centres. With regards to the evening economy, Policy 9 supports proposals that would positively contribute to the evening economy provided that they contribute to the vitality and viability of town centres, promote public safety and accord with all relevant policies in the CDP.
38. CDP Policy 30 relates to proposal for changes of use to hot food takeaways and seeks to restrict the number of new hot food takeaways receiving planning permission within the County. This is specifically within town centres (as defined within Policy 9) where there are already higher concentrations of hot food takeaways. With regards to defined local centres, Policy 30 states that consideration should be given to the impact that the proposed hot food takeaway use would have in terms of the overall vitality and viability considering the numbers of existing hot food takeaway uses and will be refused if the impact is unacceptable. Consideration should be given to the impact that such a proposal would have on the overall vitality and viability of the centre, reflecting on the mix of uses and also the levels of existing vacancies.
39. The Council monitor town centres on an annual basis and this provides an assessment of the mix of uses within town centres within the County, but local centres are not monitored in the same way. Therefore, as part of the assessment of this application, a site visit and walk around the local centre is important to observe the current balance of uses within the local centre before assessing whether this proposal would harm the vitality and viability of the local centre.
40. It is noted that since the Examination in Public and shortly before the Inspector's report was issued, changes to the use class order were announced which have now taken effect. The Inspector acknowledged this within his report and recognised that none of the policies in the Plan prevent the new regulations taking effect in the county. The Inspector went on to state that National Policy remains unchanged, and whilst implementation of some of the policies in the Plan will be affected, the full implications are not yet clear and will need to be thought through over time. From September 1st 2020, hot food takeaways are now defined as sui generis, but the policy is still however applicable to sui generis proposals that are clearly proposing a hot food takeaway. These will be hot food takeaways where their sole use is for the sale of hot food for consumption off the premises, as is the case for the proposed use applied for in this application.

41. A site visit was undertaken on the 13th August 2021 and it was observed that there are 5 existing hot food takeaways within the defined local centre, two of which operate from the premises immediately to the west of the application site. The applicant has indicated that the proposal is to relocate the existing hot food takeaway operating from the adjacent unit to the west, Pizza Mania, into 37 Seaside Lane. The applicant has stated that the intended future use of 38 Seaside Lane has not been decided at the current time, however given its current use as a hot food takeaway no further planning permission would be required for a new / different hot food takeaway to begin operating from this premises.
42. A total of 41 premises were counted within the local centre and so the introduction of a further hot food takeaway would result in just under 15% of premises being in use as a hot food takeaway. However, the local centre appeared to be in poor health with 14 vacant premises observed (including the application site). In the last 3 months of 2020, high street vacancies in England were 13.7% according to the British Retail Consortium and Local Data Company, with the vacancy rate in Easington Colliery local centre being substantially higher than this at over 30%. The application site has been vacant since January 2020 and so whilst it would not be considered to be a long-term vacancy (3 years) it has been vacant for a significant period of time and the proposal would result in the premises being brought back into use.
43. Given the high proportion of vacancies observed in the local centre, allowing this proposal for the introduction of a hot food takeaway in a currently vacant unit would not prevent opportunities for the introduction of additional retail / main town centre uses to come forward and operate from the other vacant units present within the local centre. It is acknowledged that there are limitations of the above data collection, but it is considered that sufficient evidence exists to demonstrate there is a high enough vacancy rate that the approval of this application would not prevent opportunities for retail uses to come forward. Accordingly, the principle of the proposed use in this location accords with CDP Policy 9 and 30.
44. In terms of the creation of the first floor flats, CDP Policy 9 is supportive of the introduction of residential uses to town centre where they can contribute to the overall housing supply and also to a centre's vitality and viability, whilst also increasing footfall. In this instance, the proposals would see the vacant ground floor brought back into commercial use and would use the vacant first floor as two residential flats. This would retain the property as a commercial premises with active street frontage whilst making use of the unused space above for residential use which would help to increase footfall within the local centre.
45. Therefore, although the proposal would potentially result in the collection of three hot food takeaways towards the middle of the defined local centre, in the context of the high number of vacant units within the local centre and the length of time the application site has been vacant with the proposal bringing the premises back into active use, in this instance the introduction of a further hot food takeaway is not considered to adversely affect the vitality or viability of the local centre.

Furthermore, the proposals would use the vacant first floor as residential flats, increasing footfall within the local centre. Consequently, the proposals are considered to be acceptable in principle, subject to the considerations discussed under the relevant headings below.

Residential Amenity

46. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
47. In line with this, CDP Policy 30 states that where a proposed hot food takeaway use is considered locationally acceptable, consideration will need to be given to the impact that the development would have in terms of amenity, particularly in relation to noise and odours. Where it is considered that the proposal would give rise to unacceptable impact, the application should be refused.
48. CDP Policy 31 also states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
49. The development is of a type which can give rise to additional noise and odour generated by the cooking process and also as a result of increased disruption from the comings and goings of customers and deliveries, usually outside of core business hours. The Environmental Health Officer (EHO) commented that the information submitted with the application indicates that the development is likely to breach the thresholds within the TANS which indicates that the development may, without further controls, lead to a significant impact.
50. The proposal would see the introduction of another takeaway unit in a mixed commercial/residential setting. The intention is to operate seven days per week from 1100hrs to 0200hrs, with 2300hrs to 0200hrs being open for deliveries only. These times were objected to and it is also noted that to operate beyond 2300hrs would require a premises license. No detail has been provided in relation to the control of odour and noise which will be associated with the development, but odour will be associated with the extraction of cooking fumes and noise will be associated with the extraction system and with noise transference from the ground floor to the upper floors and adjacent neighbouring properties, as well as arising from the comings and goings of patrons. Furthermore, the applicant intends to convert the first floor into two flats.
51. The EHO considers that the granting of planning permission for the development may potentially result in a statutory nuisance being created through odour generated from the preparation and cooking of meals, noise generated from the operation of extraction equipment, and noise transference between the ground floor and first floor premises commercial use, without adequate mitigation.

52. However, conditions (number 3-5) are recommended to require details of sound proofing measures and fume extraction equipment, as well as to restrict operating hours to no later than midnight on Fridays and Saturdays and 11:30pm on any other day, which has been based on the opening hours of 38 Seaside Lane (Pizza Mania) restricted by condition 4 of reference 5/PL/2009/0433. These conditions are considered sufficient to mitigate the potential of a statutory nuisance or adverse impact upon amenity. With these conditions, it is considered that the proposals are acceptable with regards to noise and odour generation.
53. With regard to antisocial behaviour, the Parish Council have raised concern that there is already a problem with anti-social behaviour in the immediate vicinity where there are frequent instances of littering. They consider increased activity in the area arising from the proposed development would exacerbate these problems. Whilst these concerns are noted, it is considered that there is no direct association between the introduction of a single new hot food takeaway in the location proposed to any tangible likely increase in antisocial behaviour given its position within the defined local centre of the settlement. The Police Architectural Liaison Officer was consulted but no comments were received, and a planning condition is recommended to limit operating hours.
54. With regard to the requirement to contribute to healthy neighbourhoods, Policy 29 requires that proposals contribute towards a healthy neighbourhood and consider the health impacts of developments, whilst Section 8 of the National Planning Policy Framework (NPPF) acknowledges the role of planning in improving health. In this regard, it is acknowledged that whilst significant high levels of hot food takeaways within an area can have a detrimental impact on the physical health of residents within communities within this location it is not considered that there is an over proliferation of hot food takeaways in the immediate vicinity to a level that could be considered to have a direct detrimental impact on the physical health of the neighbourhood, to a level that could warrant refusal of the application.
55. CDP Policy 29 also requires all new residential development will be required to comply with the Nationally Described Space Standards (NDSS). In order to allow for an appropriate transition period, the NDSS will only be applied to outline or full applications approved one year after the Plan is adopted. The CDP was adopted on the 21st October 2020 and so the proposed residential units are required to comply with the NDSS.
56. The application proposes the conversion of the first floor into two flats, with a total of six bedrooms. One flat would contain five bedrooms intended to be occupied by the applicant and her children, whilst the other flat would contain one bedroom to be occupied by a staff member of the ground floor unit below.
57. In terms of the one bed flat, the bedroom would be served by a window to the rear looking across the flat roof of the existing ground floor rear offshoot. Either side of the window lies a flat roofed first floor rear offshoot to the west and a dual pitched first floor rear offshoot to the east. Due to the rear elevation facing north, this room would not directly receive any sunlight and daylight would be limited by the height and proximity of the offshoots either side.

58. In terms of the other habitable rooms, the kitchen / dining area would be served by a secondary window facing west towards the blank elevation of the first floor offshoot 2.8m away, but with the installation of a primary window proposed to the rear (north) to allow sufficient outlook and daylight for the future occupant. The lounge would benefit from a window within the front elevation (south) which would provide outlook and receive sunlight. Therefore, whilst the bedroom would not receive a great amount of light or provide a great amount of outlook, both the lounge and the kitchen/dining room would provide adequate levels of outlook and light and this is considered sufficient to ensure a good level of amenity for the future occupant.
59. In terms of the five bed flat, three bedrooms would be located to the front and be served by windows facing south, providing good levels of outlook and light. The kitchen / dining area would be located to the rear (north) and be served by three windows providing good levels of outlook and daylight. The lounge would be located towards the middle of the first floor to the west side and would be served by rooflights but no windows. Because of this, the lounge would receive light but would not provide outlook.
60. The other two bedrooms would not provide a great amount of outlook or receive a great amount of light. The middle bedroom would be served by a north facing window looking across the flat roof of the ground floor offshoot onto the wall of the first floor offshoot 2.5m away and the rear bedroom would be served by an east facing window looking onto the side elevation of 38 Seaside Lane 6.8m away. The windows serving both of these rooms would fall well below the relevant separation distance, however the Council's adopted Residential Amenity Standards SPD advises at Paragraph 3.6 that 'Distances may also be relaxed having regard to the character of an area. Shorter distances than those stated above could be considered in those urban areas typified by higher densities. It will however be important to ensure that the amenity of existing residents is not significantly impacted upon.'
61. The application site is located within an urban area and given that the proposal relates to the conversion of a vacant first floor above a commercial premises, there is limited scope to improve the proposals in terms of the outlook from and light entering the middle and rear bedrooms. It is noted that the applicant intends to reside in this flat with her children and that the two bedrooms with poor outlook and light could easily be converted to non-habitable rooms, or to form part of an extended lounge in the future through the removal of internal walls, whilst retaining the flat as residential accommodation with three bedrooms. Therefore, whilst two of the bedrooms would not provide high standards of amenity for the future occupants, the other three bedrooms and shared living space would and so given the above it is considered that the poorer outlook from and light levels within the middle and rear bedrooms could be accepted in this instance. The amenity of existing residents would not be significantly impacted upon by the proposed residential use to the first floor.

62. In terms of internal amenity space, the NDSS require a single bedroom is required to have a minimum width of 2.15m and a minimum floor area of 7.5m², with accommodation with more than 2 bedspaces expected to have one double bedroom with a floor area of at least 11.5m and a width of at least 2.75m. The largest bedroom within the five bed flat measures 4m by 3.3m with a floor area of 13.2m², and the smallest bedroom measures 2.5m by 3m with a floor area of 7.5m². The proposals therefore accord with the NDSS.
63. Therefore, subject to the inclusion of planning conditions, the proposed development is considered to accord with the requirements of CDP Policy 29, 30 and 31 and Sections 12 and 15 of the NPPF.

Character and Appearance of the Area

64. CDP Policy 29 requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. In total, Policy 29 sets out 18 elements for development to be considered acceptable, including: buildings being adaptable; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals
65. CDP Policy 30 also seeks to ensure that roller shutters and blank frontages are avoided where possible.
66. The submitted elevation drawings show a minor alteration to the shop front in terms of the installation of a door to replace a window and allow the existing door to provide sole access to the first floor residential flat; with the new door and window frames to be finished in black aluminium rather than white upvc. The shop front is currently in a poor state of repair with the glazing having been boarded up and these alterations are considered to improve the appearance of the shop front.
67. The application also proposes the installation of a flue to the flat roof of the central 'L' shaped ground floor rear offshoot. Whilst the flue would be visible from Ashton Street to the rear, this would not appear out of place in the context of Ashton Street where there are existing flues in place to serve the other hot food takeaways in the vicinity and it would not be visible from the front elevation and Seaside Lane as the main street. Whilst roller shutters are proposed to the rear, none are proposed to be installed to the shop front.
68. Objections have been received in relation to increased litter generated by the proposal which cite concerns regarding similar issues with the existing hot food takeaway already in operation. Whilst it is acknowledged that the nature of the use will result in customers leaving the premises with associated packaging that will require disposal, the area is well served by existing litter bins, with 4 bins being located within 200m of the site, including one to the front of neighbouring property 36 Seaside Lane. As shown by the floor plans, there is understood to be no provision to consume food within the premises and as such food will be taken away and consumed offsite. As such, it is considered that the proposal is located within an area whereby any customers arriving on foot will have opportunity to dispose of their waste appropriately.

69. It is therefore considered that the proposal is acceptable in line with Policies 29 and 30 of the CDP.

Highway Issues

70. Paragraph 110 of the NPPF advises that planning decisions should ensure development provides safe and suitable access to the site can be achieved for all users.

71. Paragraph 111 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

72. CDP Policy 21 is broadly in accordance with the above and relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network.

73. The application proposes the change of use from a former betting shop to a hot food takeaway and two residential units on the first floor. Parking to the front of the premises along Seaside Lane is restricted by the location of a bus stop and double yellow lines to the west which extend round into the side street. This results in space on Seaside Lane being at a premium due to residential properties above the shops.

74. Objections have been received from the Parish Council, and a resident citing concerns that highway safety would be adversely affected by the proposal as a direct result from an increase in visitors and an unsustainable demand for parking and servicing on the highway immediately in front of the premises.

75. The Highway Authority have been consulted and also raised concerns over the proposed uses not benefitting from any dedicated off-street parking spaces and the likelihood of delivery drivers using the space to the front of the premises where there are other takeaways in close proximity. Highways Officers note that the area to the rear of the premises on Ashton Street could be used for parking and note the location of a public car park diagonally opposite. The applicant has stated that the occupants of the residential accommodation would use the public car park, with delivery drivers and unloading taking place to the rear on Ashton Street. A condition is recommended to this effect.

76. Whilst it is likely there will be some increase in vehicular movements to and from the premises compared to those currently experienced, Highways Officers do not consider the extent of the increase to be severe enough to justify a highways objection and to sustain an appeal under NPPF Paragraph 111. A condition is recommended to restrict the occupation of the one bed residential unit to a staff member working in the ground floor commercial unit and this is likely to limit the number of vehicular trips generated by the occupant of this flat.

77. In light of the above it is considered that given the location of the application site, within the defined local centre of Easington Colliery and adjacent to a bus stop providing access to sustainable travel facilities, that the proposal would not adversely affect highway safety and would accord with the requirements of Policy 21 of the CDP, and Part 9 of the NPPF.

Ecology

78. CDP Policy 25 states that developers will be required to enter into Planning Obligations which are directly related to the development and fairly and reasonably related in scale and kind to the development, in order to secure the mitigation that is necessary for a development to be acceptable in planning terms.

79. CDP Policy 42 states that development that has the potential to have an effect on internationally designated site(s) will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. In these exceptional circumstances, where these tests are met, appropriate compensation will be required in accordance with Regulation 68. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site.

80. This development is within the 6km Durham Coast HRA buffer therefore Durham County Council (as a Competent Authority) are required to undertake a screening assessment to determine whether the development will have a significant effect on the integrity of the Durham Coast SAC and Northumbria Coast SPA.

81. Durham County Council has carried out initial screening (in conjunction with Natural England) in compliance with the Habitats Regulations for all housing allocations in the county. The 6km buffer allows development to proceed from 0.4-6km away from the coastal European Protected Sites provided certain mitigation measures are taken. This can include alternative green space that meets the Natural England SANG guidelines or a financial contribution of either £662.00 (for sites allocated in the County Durham Plan) or £756.61 per dwelling (for non-allocated sites) towards specific Coastal Access Management Measures identified in the Durham Heritage Coast Management Plan.

82. The proposals would result in the creation of two residential flats within the first floor of a vacant commercial premises, an unallocated site. Given the constrained nature of the site and limited footprint it is not considered that mitigation could be provided on site and as such it is considered appropriate to secure mitigation through commuted sum of £1513.22 to which the applicant has agreed, to be secured through S106 Agreement or Unilateral Undertaking. The development is therefore considered to accord with CDP Policy 42, the habitat regulations and the Council's developer contributions guidance.

CONCLUSION

83. The proposal relates to the conversion of a vacant betting shop within the defined local centre of Easington Colliery into a hot food takeaway with two residential flats above. Whilst there are two existing hot food takeaways operating from the adjacent premises to the west and another three elsewhere within the local centre, the proposal would bring a unit that has been vacant for almost two years back into use and given the high number of vacant premises within the local centre the introduction of a further hot food takeaway would not preclude the introduction of retail uses in the future. Furthermore, the creation of the two first floor flats would help to increase the footfall in the local centre. Therefore, the proposals are not considered to adversely affect the vitality or viability of the local centre, according with CDP Policy 9 and 30 and Part 7 of the NPPF.

84. Although the applicant has not provided any information relating to odour mitigation measures at the current time, EHO have recommended a condition to secure details of this as well as sound proofing measures to safeguard the amenity of the occupants of the first floor flats. A condition to restrict the operating hours of the takeaway is also recommended. With these conditions, the amenity of neighbouring land users is considered to be safeguarded, according with CDP Policy 30 and 31 and Part 12 of the NPPF.

85. Whilst Highway Officers have raised concern at the lack of dedicated parking to serve the development, the application site is considered to be a sustainable location within the defined local centre of Easington Colliery and adjacent to a bus stop, with provision for on-street parking and unloading to Ashton Street to the rear. The increase in vehicular movements to and from the premises is not considered to be of such significance to warrant the refusal of the application in the context of NPPF Paragraph 111.

86. Therefore, the proposed development is considered acceptable in principle and would not have an unacceptable impact upon the character and appearance of the area, residential amenity or highway safety in accordance with the requirements of policies 21,29, 30 and 31 of the County Durham Plan and Sections 2, 4, 6, 7, 8, 9, 12 and 15 of the NPPF 2021 and so approval is recommended subject to the inclusion of appropriate planning conditions.

RECOMMENDATION

That the application be **APPROVED** subject to a s106 agreement to secure the following:

- £1513.22 to be used towards the CAMMs Tier 2 Beachcare and Wardening programme.

And the following conditions;

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 9, 21, 25, 29, 30, 31 and 42 of the County Durham Plan and Parts 2, 4, 5, 6, 7, 9 and 12 of the National Planning Policy Framework.

3. No hot food shall be prepared or served at the premises until details of the fume extraction system, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems and DW172: specification for kitchen ventilation systems shall have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times thereafter when cooking is being carried out on the premises.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 30 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

4. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority to demonstrate that noise audible within the following specified rooms within the two first floor residential flats will not exceed:
 - o 35dB LAeq 16hr bedrooms and living room during the daytime (0700 - 2300)
 - o 30 dB LAeq 8hr in all bedrooms during the night-time (2300 - 0700)
 - o 45 dB LAmax in bedrooms during the night-time

The approved scheme shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: To protect the amenity of future occupiers in accordance with Policy 29, 30 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

5. The premises shall not operate outside the hours of 0900 to 2330hrs on Mondays to Thursdays, 0900 to 0000hrs on Fridays and Saturdays and between 1100 to 2330hrs on Sundays.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 30 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. All deliveries and servicing (including those being despatched and received) shall be undertaken from the delivery area at the rear of the property. No deliveries shall be received or despatched from the site outside the hours of 1000 and 2330.

Reason: In order to ensure the highway safety in accordance with Policy 21 of the County Durham Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (20182021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses

